

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

Filed/Received
10/25/2004 05:14:18 PM CDT

PENNY LEE ANDERSON and
RUSSELL D. ANDERSON, SR.,

Plaintiffs,

CASE NO. 03-C-0510-C

v.

JUDGE BARBARA B. CRABB

TRANS UNION, LLC, EXPERIAN
INFORMATION SOLUTIONS, INC., CSC
CSC CREDIT SERVICES, INC., and
EQUIFAX, INC.d/b/a EQUIFAX
INFORMATION SERVICES, LLC,

Defendants.

SECOND AFFIDAVIT OF CHRISTOPHER T. LANE, ESQ.

I, Christopher T. Lane, Esq., hereby declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. Edward McKenna, Cross Country Bank's 30(b)(6) representative, gave deposition testimony under oath on June 28, 2004.
2. I participated in Mr. McKenna's deposition on behalf of Trans Union, LLC.
3. Attached as Exhibit A are true and accurate copies of portions of the transcript reflecting the deposition testimony given by Mr. McKenna including select Exhibits associated therewith.
4. Specifically, pages 21, 56-59, 113, 117, 118 and Exhibits 14 and 23 of Mr. McKenna's deposition have been attached as Exhibit A.
5. Eileen Little gave deposition testimony under oath on behalf of Trans Union on September 23, 2004.

6. Attached as Exhibit B are true and accurate copies of pages 34, 37, 38 and Exhibit 8 of Ms. Little's deposition.

7. Glen R. LeBlanc, Capital One's 30(b)(6) representative, gave deposition testimony under oath on June 10, 2004.

8. I participated in Mr. LeBlanc's deposition on behalf of Trans Union.

9. Attached as Exhibit C are true and accurate copies of pages 11-13, 18 and 23-27 of Mr. LeBlanc's deposition testimony.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

/s/Christopher T. Lane
Christopher T. Lane

21

1 of that account, is that correct? Am I correct?

2 A Yes, that's correct.

3 Q And subsequent to it coming off, it went
4 back on? Do you remember that?

5 A No, it did not.

6 Q When did it come off?

7 A Just I believe very late 2003. I'd have to
8 look at the specifics to get the date. But late 2003.

9 Q And that was on one account, correct?

10 A Yes.

11 Q Were there any other Cross Country accounts
12 that either or both of these plaintiffs had that had
13 the deceased notation on it?

14 A The account was apparently originally opened
15 as a Master Card account. It was subsequently
16 converted to a Visa account. The Master Card account
17 then being closed. And for a period of time, both the
18 Master Card and the Visa account were reported.

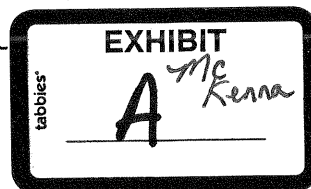
19 Q And is that the usual procedure for Cross
20 Country Bank to report a closed account for some period
21 after the account's been closed?

22 A Yes.

23 Q Now, if you would be so kind, tell us what
24 the distinction is between a Master Card issued by

6 (Pages 18 to 21)

CIVIL ACTION GROUP 763-576-



Edward McKenna

56

1 MR. BRYCE: I have just handed it to him.

2 So you can answer the question, Mr. McKenna.

3 THE WITNESS: Again, we don't routinely see
4 this. But I have come to know that this is a dump of
5 the reporting record that First Data Resources
6 generates on our behalf to each of the credit bureaus.

7 BY MR. LYONS:

8 Q All right.

9 A This is the automated reporting.

10 Q All right. And does it have any history in
11 it as to, from time to time, what was done? Do you
12 know?

13 A I don't believe it does.

14 Q On the first page there, about in the middle
15 column, about halfway down, there is a CHD deceased
16 flag and a B over at the right-hand margin. Do you
17 know what that means?

18 A That's the flag that was set at the address
19 change.

20 Q Okay. And what's that B on there?

21 A That's the setting that indicates that
22 generated the deceased comment for the account.

23 Q All right. Are there other letters that can
24 be applied on that line for deceased flag B, C, D, E, F

1 or anything like that, that you know of?

2 A I'm not sure of all the uses. I just looked
3 into this. But there are other flags on that for other
4 purposes that have nothing to do with deceased.

5 Q All right. I am thumbing through this and I
6 would like you to thumb through it also, sir, before we
7 mark it as an exhibit. Do you see on the first page in
8 the middle from left to right, as you're looking at it,
9 it says, reporting date, 10/10/2001? And then if
10 you'll turn a couple of pages. As a matter of fact, if
11 you'll go to the fourth page, you see reporting date
12 11/9/2001.

13 And if you'll go to the fourth page after
14 that, the reporting date, 12/10/2001.

15 A Yes.

16 Q Do you know how this document came into
17 being? You said this is how First Data reports or
18 transmits data. It's a hard copy of that.

19 Do you know how it actually came into being
20 with respect to this litigation, this lawsuit?

21 A No, I don't.

22 Q Can you tell us if you know whether or not
23 the months before 10/10/2001 are accessible through
24 First Data?

1 A I don't know.

2 Q I would have to ask First Data or who could
3 I ask at Cross Country Bank or Applied Card Systems?

4 A We can find out. I don't know specifically
5 who to ask. But we can ask what records are available.

6 Q All right. Okay.

7 All right. Let's then go back to Exhibit
8 18. And we were in January 3rd, 2001. And then if we
9 flip back and forth through here and find entry number
10 seven, which is on the fifth page, that's January 16th,
11 2001. Do you see that?

12 A Yes, I do.

13 Q Now, there is a HAL, H-A-L. Is HAL a person
14 or would that be a computer?

15 A I believe that's a computer. That looks
16 like a standard message when we mark an account that
17 has an offer available to them.

18 Q And then eight is a July 13th, '01, entry.
19 And that's also an automated entry?

20 A Correct.

21 Q What about 09 that has no person or no
22 identifying operator in the second column? What does
23 that mean again?

24 A That's a conversion of the account from

59

1 Master Card to Visa on May 9th of '02. You see both
2 account numbers in the memo line.

3 Q But that's when that happened?

4 A Correct.

5 Q And then if we turn over to the second page
6 of Exhibit 18, we see the heading at entry 10, which is
7 the fourth up from the bottom. That does say, account
8 converted from Master Card?

9 A Yes.

10 Q What's Master Card listed as XREF3? What
11 does that stand for?

12 A On the new Visa account record, the Master
13 Card account record, will be reflected in a cross
14 reference field on that account.

15 Q And in that cross-referencing, is that, from
16 your understanding, is that when the deceased flag
17 followed from the Master Card to the Visa card?

18 A Yes. The whole record was moved.

19 Q On item number 11, which is on the fifth
20 page of this exhibit, there is an entry for October
21 10th, 2002. What is that?

22 A I'm going to read it. It's nothing that's
23 directly familiar to me.

24 Q All right. Number 12 is above it. B6V.

113

1 is checked, is that correct?

2 A Yes.

3 Q And there is also a box for change data as
4 shown. And that box is not checked, is that correct?

5 A That's correct.

6 Q Now, your company understands that if they
7 check the box verified as reported, no changes will be
8 made?

9 A That's correct.

10 Q So you would not expect that in response to
11 your company having checked the verified as reported
12 box, you wouldn't expect any change to be made?

13 A That's correct.

14 Q No change to the ECOA Code?

15 A Yes.

16 Q And it would be your expectation that Trans
17 Union's system would still maintain the X in the ECOA
18 Code section of its report, correct?

19 A Upon review, yes. I'm sure they expected it
20 to be changed when they filled it out.

21 Q Okay. I'm sorry I didn't get that.

22 A I said, upon reviewing it, and this
23 discussion expected, wouldn't be changed, but the
24 intention was to have it changed.

1 company, correct?

2 A That's correct.

3 Q Are you familiar with Exhibit 22? Do you
4 know what that document is?

5 A Not specifically, no. I presume it's Trans
6 Union's record of the response.

7 Q Okay. What about the name at the bottom,
8 Linneir Clarke? Does that ring a bell as someone at
9 your company?

10 A Not specifically. But judging by the phone
11 number, I believe that's one of the contact phone
12 numbers that we have seen before for the company.

13 Q Now, Trans Union Systems evidenced on
14 Exhibit 22 shows that this ACDV was returned with the
15 section verified as reported code check.

16 Do you believe that those pages of Exhibit
17 14 reflect something other than that being said to
18 Trans Union?

19 A Yes.

20 Q And what do you believe was sent to Trans
21 Union?

22 A Again, the dates are slightly different. So
23 I'm not sure they are in response to the same thing.
24 But in Exhibit 14, there is two items that have the

1 handwritten note, removal of deceased status, on one.
2 And that's the one that has Penny's name at the top.
3 Well, they both have Penny's name at the top. That's
4 the one on the Visa account, beginning with four and
5 ending with 6736.

6 And the other one from the same date,
7 December 12th, '02, delete the entire trade line,
8 related to the Master Card account beginning with five
9 and ending in 3912. Again, the dates are different.
10 So I can't affirm what's in response to what. The date
11 on that again, 12/12/02, is handwritten.

12 Q Those were the UDF's?

13 A Correct.

14 Q With respect to the dispute back in November
15 of 2002?

16 A The Trans Union form?

17 Q Yes.

18 A Okay.

19 Q Again, our records indicate that Linneir
20 Clarke verified the account as reported. And I want to
21 know if you have any reason to disagree with that, that
22 on that date, I believe, sometime in November '02, in
23 response to that dispute, Cross Country Bank verified
24 that account as reported?

ADVS ID: 690544
Clinic?: U

UNVERIFIED
AUTOMATED CONSUMER DISPUTE VERIFICATION

Created: 11/14/2002
Sent: 11/14/2002
Received: 11/14/2002
Response Due: 11/20/2002

User:

----- ORIGINATOR INFORMATION -----

TRANS UNION
P.O. BOX 3000
CHESTER

Office: 912 Mailbox#:UPROD

Source: TUN

PA 19022-3000Crl#:1148627430020103_3AN

----- RESPONDER INFORMATION -----

Subscriber #: B 24UBI26 Short Name: CRS CNTY BK

----- DISPUTE INFORMATION -----

Dispute #1: 028- Subscriber comment/remarks message disputed.

----- CONSUMER INFORMATION -----

Acct#: 4227097484406736
Name.: ANDERSON, RUSSELL D.

GC SSN: S. 794-78-4720 D.O.B. 09/01/1960 Age
Phone #: (000)246-2213

AKA...
Current Address:

Street...: 1614 HALLEWOOD BL
City, ST: NEW RICHMOND, WI

Zip: 54017-2400

Previous Address:

Street...: 1380 HERITAGE DR 17
City, ST: NEW RICHMOND, WI

Zip: 54017-

----- CURRENT/HISTORICAL ACCOUNT INFORMATION -----

Date	/	Present Status	High	Pmt Hist. Curr: B	Type
Opened	Date	Cond	Balance	Past Due	Balance
04/1999	10/01/2002	1847	01	1959	13-24: 000000000000
				Acct: MOP	R 01

Metro Stat	Credit	Date of	Date of	Serious/	Date	Dist. Status
Date Code	Limit	Term	Lst Pmt	Action	ChrgOff Amt	Closed
/	1900	/	/	/	/	/
				#Mo. 30 60 90	ECOA	X

Acct	Own/	Monthly	Pmts	Max. Delinquency	Max. Deling	Max. Deling	Most Recent
Type	Rent	Payment	Due	Date	Amount MOP	Date MOP	Date MOP
18	/	/	01	/	/	/	12: /

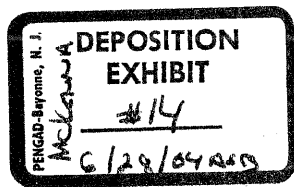
Code/Remark: / SCC: Undef.Amt:

Remark1: DECEASED
Remark2:

Joint card holder

11/22/02

11/25



TransUnion LLC

2 Baldwin Place Crum Lynne, PA 19022--

FAX# 6105464602

Account Number 4227097484406736

Subscriber Code Applied Card Systems/24UB126

Date : 01-08-2003

Control # 11486279500501001N

FCRA Response Due Date 01-15-2003

Response Date 01-17-2003

SAME

Name/Gen Code PENNY L ANDERSON / —

☐ **Name/Gen Code** penny - anderson / —

Address 1614 HALLEWOOD BV, NEW RICHMOND WI
54017--

Address 1614 hallewood blvd, new richmond WI 54017-2400

Prev Name/Prev Gen Code	URMSTON,PENNY - ROSSO,PENNY,L / ---
-------------------------	----------------------------------------

☐ Prev Name/Prev Gen Code ---/---

Prev Address 1614 WILDWOOD AV, NEW
RICHMOND WI 54017-

☐ Prev Address -, ---

SSN/DOB 001589006 / 12-01-1970

☐ SSN/DOB - / 01-01-1960

Telephone Number 0002462213

☐ Telephone Number 6036680384

2nd Prev Addr 1380 HERITAGE DR 17, NEW
RICHMOND WI 54017-

Dispute Code 1: 101:Consumer not liable for account (i.e. ex-spouse, business). If liable, provide complete ID and ECOA

Dispute Code 2: 107:Disputes Special Comment/Compliance Condition Code/narrative remarks. Verify accordingly

FCRA Relevant Information:

Verified as Reported ☒ Change Data as Shown ☐ Delete Account ☐

Acct Status	Pay Rate	MOP	Cond/Cumm Status	Date Opened	Balance	Amt Past Due	High Cr/Org	Credit limit	Org Chg Amt
11	-	-	-	04-01-1999	1141	0	1959	1900	-

[illegible][illegible]

Accounts History

Agency ID	Sec Mktg Agency Acct#	Mortgage ID
-----------	--------------------------	-------------

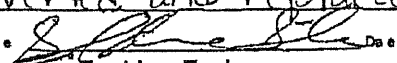
[illegible]

--	--	--

Actual Pymnt	Portfolio Indicator	Prchsd from/So
--------------	---------------------	----------------

10	11	12
13	14	15

Remarks : DECEASED

UNIVERSAL DATA FORM									
<div style="display: flex; justify-content: space-between;"> <div> <p>This form is for reporting or updating account information</p> <p> <input type="checkbox"/> New <input checked="" type="checkbox"/> Delete <input type="checkbox"/> Change </p> </div> <div> <p>change makes trade current - previous delinquent history obsolete?</p> <p> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO </p> </div> </div>									
<p>You regularly report data <input type="checkbox"/> Automated <input checked="" type="checkbox"/> Manual</p> <p>Do not include security passwords with codes below</p>									
Subscriber Name		Cross Country Bank			Subscriber Code		458BB02968		
Subscriber Address		802 Delaware Ave 8th Floor			Subscriber Code		1216355TNAI		
		Wilmington, DE 19801			Subscriber Code		B244B008		
CONSUMER INFORMATION									
Surname		F s	M	Suffix	SSN		DOB/Age		
Anderson		Penny			001-58-9006		01/19/60		
Current Address		11014 Hallowood Blvd			City		State		ZIP
		New Richmond			WI		54017		
Previous Address					City		State		ZIP
Current Employee Name					Occupation		City		State
Co Applicant Surname		First	M	Suffix	SSN		DOB/Age		
Anderson		Russell			394-78-4720				
Additional Co Applicant information (Complete only if not Account)									
Co Applicant Surname		Anderson			City		State		ZIP
					New Richmond		WI		54017
Co Applicant Employer Name					Occupation		City		State
CURRENT HISTORICAL ACCOUNT INFORMATION									
Account Number		Date Open		Present Status		High Balance		Payment History	
5414-9070				Delete				Indicate when the MOP history	
9890-3912		12/1/02		Current Balance		Amount Paid Due		<input type="checkbox"/> No of Payments Delinquent	
Cross Country Bank								LIR	
Metro Status Code		Credit Limit		Terms/Amount		Maximum Delinquency Date Amount MOP		Status or Closed Date	
								<div style="background-color: black; width: 100px; height: 20px;"></div>	
Type of Loan/Co-terms		Special Comments/Remarks		Delete		History Status		<div style="background-color: black; width: 100px; height: 20px;"></div>	
						<input type="checkbox"/> No of Months 30 days 60 days 90 days			
<p>When you sign this form you certify that you complete and/or manual records have been updated to reflect any changes made</p>									
<p>Reason for deletion or status change from adverse to favorable <u>delete tradeline account</u></p> <p><u>Converted and replaced with Visa</u></p>									
Authorized Signature					Date		12/12/02		
		Em Idare Em lo			(561) 995-8820				
Please Print Name					Telephone				

UNIVERSAL DATA FORM

This form is for reporting or updating account information. change makes made current's previous de nquen h's or y o be de eed?

☐ New ☐ De e e ☒ Change ☐ YES ☒ NO

You regularly report data ☐ Automated ☒ Manual

Do not include security passwords with codes below

Subscriber Name Cross Country Bank Subscriber Code 4588B02969

Subscriber Address 800 Delaware Ave 8th Floor Subscriber Code 1216356TNAI

Wilmington, DE 19801 Subscriber Code B244B008

CONSUMER INFORMATION

Surname Anderson First Penny M ☐ Suffix ☐ SSN 001-58-9006 DOB/Age 01-1946

Current Address 1614 Halewood Blvd City New Richmond State WI ZIP 53017

Previous Address ☐ City ☐ State ☐ ZIP ☐

Current Employee Name ☐ Occupation ☐ City ☐ State ☐

Co-Applicant Surname Anderson First Russell M ☐ Suffix ☐ SSN 394-78-4720 DOB/Age ☐

Add tional Co Applicant Information (Complete only f o nt Account)

Co Applicant Surname Anderson City New Richmond State WI ZIP 53017

Co Applicant Employee Name ☐ Occupation ☐ City ☐ State ☐

CURRENT HISTORICAL ACCOUNT INFORMATION

Account Number 4227-0974 Date Open 04/99 Present Status OPEN High Balance ☐ Payment History ☐ Type R1

8440-6736 12/9/02 Current Balance ☐ Amount Paid Due ☐ No of Payments Delinquent ☐

Cross Country Bank ☐

Member Status Code 11 Credit Limit 1900 Terms/Amount ☐ Maximum Delinquency ☐ Status or Closed Date ☐ ECOA 2

Type of Loan/Co s e a R Special Comments/Remarks Removal of deceased status H's once Status ☐

No of Months ☐ 30 days ☐ 60 days ☐ 90 days ☐

When you sign this form you certify that your computer and/or manual records have been adjusted to reflect any changes made.

Reason for deletion or status change: due to system error, applicant and co-applicant are being reported as deceased remove deceased status.Authorized Signature [Signature] Date 12/12/05
Emilare Emile (561) 995-8820

Please Print Name _____ Telephone _____

When you sign this form, you certify that your computer and/or manual records have been adjusted to reflect any changes made.

Date: 10-15-2003

Telephone: 5619958820

TRANS UNION CORPORATION
 CONSUMER RELATIONS
 CRS ACQV/ACTV RESPONSES AUTOMATICALLY PROCESSED
 DATE: 11/26/02 TIME: 06:34
 PAGE: 4163
 OF
 EPT- KKVRS508-1

DEPT: N
 IBER RESPONSE DATE: 11/25/02 CONTROL: 14862743 002 01 MA/SM: 0912 SUB LOC: 001
 NO COMPLY WITH P.C.R.A., A RESPONSE IS REQUIRED BY: 11/20/02 DATE: 11/14/02

VERF SUBSCRIBER CHANGES TO CONSUMER DEMOGRAPHIC DATA:
 (D) NAME: ANDERSON, RUSSELL, *****
 AKA:
 (D) ADDR: 1614 HALLEWOOD BLVD
 NEW RICHMOND, WI 54017-
 (U) PREV: *****

 (S) SSN/DOB/PHONE: / ***** /
 NAME: ANDERSON, RUSSELL, D, SR
 AKA:
 ADDR: 1614 HALLEWOOD BV
 NEW RICHMOND, WI 54017
 PREV: 1380 HERITAGE DR 17
 NEW RICHMOND, WI 54017
 SSN/DOB/PHONE: 394-78-4720 / 09/01/60 / 000-246-2213

CNTL# 14862743 002 01 DATE RECD: 11/06/02 PRI: 3

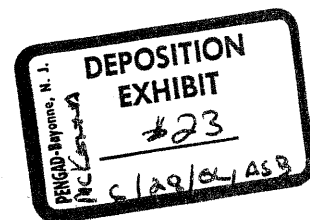
CONSUMER SUBSCRIBER COMMENT/REMARKS MESSAGE DISPUTED
 STATES
 COMMENTS

	SUBSCRIBER NAME	SUB.CODE	OPENED	RPT'D	BAL.OWING	PAST DUE	HIGH CRDT	PAYMENT	TP.ACCT	MOP
	ACCOUNT NUMBER	CREDIT LIMIT	TERMS		LAST PYMT	MAX.DELQ.DATE	MD.AMT MD.MOP	HISTORY		ECOA
	TYPE LOAN	COLLATERAL/FLAG			SP.COMMENTS/STATUS/REMARKS		CLOSED	MOS 30 60 90		
VERIFIED	CRS CNTY BK	B 24UB126	04/99	10/02A	\$1847	\$0	\$1959	111111111111	R	01
AS	4227097484406736	\$1900						111111111111		X
REPORTED: X	CREDIT CARD				DECEASED			0 0 0 0		
CF				11/02A						
DA										
SP										

DECEASED /NOT DECEASED
 JOINT CONSUMERS

RESPONSE CODES: 035 VERIFIED AS REPORTED.

RESPONSE NARRATIVE:
 CONSUMER MESSAGE:
 AUTHORIZED PHONE/NAME: 561-995-8820 / LINNEIR CLARKE



TU0052

1 MR. CENTO: We will do that.

2 MR. LYONS: Thank you.

3 BY MR. LYONS:

4 Q. Now, I am showing you what has been
5 marked as Deposition Exhibit 8. Can you identify
6 this document for me?

7 A. It's a copy of an ACDV that was sent
8 to Cross Country.

9 Q. What was the date that it was sent
10 to Cross Country?

11 A. November 14, 2002.

12 Q. And when does Trans Union require a
13 response from Cross Country Bank by?

14 A. 11/25.

15 Q. And that says right up there
16 "Subscriber response date 11/25"?

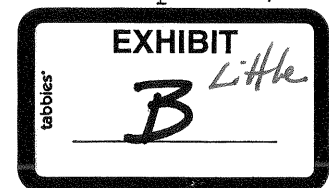
17 A. Yes.

18 Q. That's the date by which they need
19 to respond back to Trans Union, correct?

20 A. Right.

21 Q. If they don't respond back by that
22 day, then it gets coded as a did not respond,
23 right?

24 A. Yes.



1 testimony from a fact witness. You can
2 answer if you can.

3 THE WITNESS: No, the Act doesn't
4 say they have to respond in six days.

5 BY MR. LYONS:

6 Q. Now, this ACDV is related to the
7 November 2002 dispute that we talked about before
8 that has been marked as Deposition Exhibit 5,
9 correct?

10 A. Yes.

11 Q. What date was the communication sent
12 from Trans Union to Cross Country Bank?

13 A. 11/14.

14 Q. And, if we look down towards the
15 middle of the page, we see the Cross Country Bank
16 marked or responded to the ACDV by marking
17 "Verified as reported." Do you see that?

18 A. Yes, correct.

19 Q. Then it appears that Cross Country
20 Bank also responded by updating the date of
21 reporting; is that correct?

22 MR. CENTO: Objection to the form;
23 vague and ambiguous with respect to the term
24 "respond".

1 THE WITNESS: Yes.

2 BY MR. LYONS:

3 Q. And Cross Country Bank also seemed
4 to make some kind of a change to the ECOA
5 indicator. Do you see that?

6 A. Yes.

7 Q. And what was that change?

8 A. They put an asterisk there.

9 Q. What does that mean?

10 A. That they wanted that deleted.

11 Q. Is that what the asterisk means?

12 A. Yes.

13 Q. Is that the appropriate response?

14 MR. CENTO: Objection to the form.

15 THE WITNESS: Well, the whole
16 response is inconsistent. They put verified
17 as reported no matter what changes they
18 wanted. They can't have both. It's either
19 verified as reported or changed. They chose
20 verified as reported. So the changes would
21 not happen.

22 BY MR. LYONS:

23 Q. So their response was inconsistent?

24 MR. CENTO: Objection to the form of

DATE: 11/26/02 TIME: 06:34
PAGE: 4163TRANS UNION CORPORATION
CONSUMER RELATIONSC. 03
PT-ID: KKVRB508-1

CRS ACDV/ACTV RESPONSES AUTOMATICALLY PROCESSED

3 N
IBER RESPONSE DATE: 11/25/02 CONTROL: 14862743 002 01 MA/SM: 0912 SUB LOC: 001
O COMPLY WITH P.C.R.A., A RESPONSE IS REQUIRED BY: 11/20/02 DATE: 11/14/02

AME: ANDERSON, RUSSELL, D, SR
AKA:
DDR: 1614 HALLEWOOD BV
NEW RICHMOND, WI 54017
REV: 1380 HERITAGE DR 17
NEW RICHMOND, WI 54017
SN/DOB/PHONE: 394-78-4720 / 09/01/60 / 000-246-2213

VERF SUBSCRIBER CHANGES TO CONSUMER DEMOGRAPHIC DATA:
(D) NAME: ANDERSON, RUSSELL, *****
AKA:
(D) ADDR: 1614 HALLEWOOD BLVD
NEW RICHMOND, WI 54017-
(U) PREV: *****

(S) SSN/DOB/PHONE: / ***** /

CNTL# 14862743 002 01 DATE RECD: 11/06/02 PRI: 3

ONSUMER SUBSCRIBER COMMENT/REMARKS MESSAGE DISPUTED
STATES
COMMENTS

SUBSCRIBER NAME	SUB.CODE	OPENED	RPT'D	BAL.OWING	PAST DUE	HIGH CRDT	PAYMENT	TP.ACCCT	MOP
ACCOUNT NUMBER	CREDIT LIMIT	TERMS	LAST PYMT	MAX.DELQ.DATE	MD.AMT	MD.MOP	HISTORY	ECOA	
TYPE LOAN	COLLATERAL/FLAG	SP.COMMENTS/STATUS/REMARKS		CLOSED	MOS		30 60 90		
VERIFIED	CRS CNTY BK	B 24UB126	04/99	10/02A	\$1847	\$0	\$1959	111111111111	R 01
AS	4227097464406736	\$1900						111111111111	X
REPORTED: X	CREDIT CARD				DECEASED			0 0 0 0	

CHANGE
DATA AS
BP

11/02A

DECEASED /NOT DECEASED
JOINT CONSUMERS

RESPONSE CODES: 035 VERIFIED AS REPORTED.

RESPONSE NARRATIVE:

CONSUMER MESSAGE:
AUTHORIZED PHONE/NAME: 561-995-8820 / LINNIE CLARKE

TU0052

EXHIBIT

Trans Union-8
mte 9/23/04

1 says the reason that Capital One denied the credit application, Penny and
2 Russell Anderson's credit card application on May 29th, 2002. Do you see
3 that?

4 A That's under number one?

5 Q Yes.

6 A Yes.

7 Q Can you tell me the reason why Penny and Russell
8 Anderson were denied on May 29th, 2002 by Capital One?

9 A The information provided to us from the credit bureaus
10 indicated that the Social Security number reflected the person as deceased.

11 Q What Social Security number was provided or how were
12 the Social Security numbers provided to Capital One in the credit
13 application?

14 A The Social Security numbers were provided by the
15 applicant with their application.

16 Q Was that application telephonic or in writing?

17 A The first application that I had, let me look here for
18 Russell Anderson. Russell Anderson was actually received in the mail.

19 Q The application Mr. Anderson submitted was by mail?

20 A Right, that matches up with the letter number, letter B.
21 That was received by mail. You lost me there for a minute.

22 Q Do you think Russell Anderson's related to the May 29th,
23 2002 Capital One application was submitted by Mr. Anderson to Capital
24 One via mail?

25 A That's correct. To the best of my knowledge, the one we



1 received, we actually received it on May 21, 2002. We received two, one
2 from Russell and one from Penny Anderson. And those to the best of my
3 knowledge were received by mail.

4 Q On or about what date?

5 A We received them on or about May 21st, 2002.

6 Q How does Capital One process, or what steps does Capital
7 One take to process those applications?

8 A Upon receiving the application the information is inputte
9 into our credit system which makes the decision for us and actually queries
10 the bureaus electronically for information.

11 Q Which credit reporting agencies or bureaus did the system
12 communicate with?

13 A We communicate with all three major bureaus, but we
14 base our decision on one.

15 Q Which credit reporting agency does Capital One base its
16 decision on?

17 A We base our decision on the TransUnion report.

18 Q Is it your testimony that the TransUnion report that was
19 accessed by Capital One credit scoring system so that the applicant Russell
20 Anderson and Penny Anderson were both deceased?

21 A That is correct.

22 Q As a result of that deceased status code being received by
23 Capital One from TransUnion, did Capital One issue an ECOA letter to the
24 Andersons?

25 A Yes, we did.

1 A I can look that information up to see if it's available.

2 Q What about the credit reports that are electronically
3 accessed by Capital One in its credit application system, are those available?

4 A The information that is pertinent to Capital One from the
5 bureaus is electronically inputted into our system, so it's not an actual credit
6 report that we receive, as in a piece of paper type of thing.

7 Q It's electronic data that's received?

8 A It's electronic data that we receive and we have the
9 information that is pertinent to us.

10 Q Can that information be printed and distributed?

11 A No, it cannot.

12 Q Why is that?

13 A That information is proprietary, those screens contain
14 proprietary information to Capital One's business, and if released would be
15 damaging to the business.

16 Q Do you know what information was presented to Capital
17 One by the Andersons subsequent to May 29th, 2002, correspondence being
18 sent to the Andersons by Capital One?

19 A Yes.

20 Q What was that?

21 A With a copy of the letter they sent back, the copy of their
22 Social Security, received a copy of their bank statement and that name and
23 information, Social Security information, name matched that person.

24 Q As a result of the Andersons submitting additional
25 information to Capital One, what result did that have?

1 A We did approve the credit application.

2 Q How long after the May 29, 2002 was the Capital One
3 credit card approved?

4 A I apologize, I don't have an exact date in front of me.
5 I thought I brought it with me, I did not. I just have that we received the
6 information on June 24th, 2002. And after that information was received, we
7 went ahead and processed the application and approved it.

8 Q You don't know the approval date?

9 A I don't have it in front of me, I thought I did and I
10 apologize that I did not.

11 Q Was that joint, or what type of an account was that that
12 was opened after June 24, 2002?

13 A The account was opened for Russell Anderson.

14 Q So, it's your testimony you don't believe Penny opened an
15 account after May 29, 2002?

16 A I don't believe so.

17 Q Do you know whether or not information was received
18 relative to Penny Anderson in an attempt to try to open an account after
19 May 29, 2002?

20 A I'm not showing any record of information received
21 regarding Penny's information, Ms. Anderson's information.

22 Q You're showing the information received was only
23 information related to Russell Anderson?

24 A Yes, that's the only information I have available to me
25 right now.

1 Q What information do you have available to you now?

2 A I have the documentation that we received, his Social
3 Security card and a copy of his bank statement that matched.

4 Q Do you have a copy of the card and a bank statement?

5 A No, I do not.

6 Q Do you have a note that tells that those items were
7 received related to Russell?

8 A Yes, when I looked up his information that was available
9 to me.

10 Q Did you make any search relative to Penny Anderson?

11 A Yes, I did, but nothing came up.

12 Q Do you have record of the correspondence that's attached
13 as Exhibits B and C to deposition exhibit number one? By correspondence,
14 I mean the information that's handwritten on B and C back to Capital One
15 from the Andersons?

16 A I have copies of that in front of me, yes.

17 Q In the records of Capital One, does it show what
18 information was received and at what time after May 29th, 2002?

19 A Only as to Russell Anderson on June 24th, I'm showing we
20 received information, a Social Security card and bank statement.

21 Q Do you see, do you not, Exhibit B attached to Capital One
22 exhibit number one is from Penny Anderson?

23 A Yes.

24 Q Do you see also Exhibit C appears to be from Penny
25 Anderson, at the very bottom of the page?

1 CROSS EXAMINATION

2 BY MR. LANE:

3

4 Q Hi, Mr. LeBlanc, my name is Chris Lane, representing
5 TransUnion. Are we to understand that based on Exhibits B and C, that
6 Russell Anderson and Penny Anderson applied for separate credit cards or
7 was that a joint application?

8 A That was separate applications to the best of my
9 knowledge.

10 Q It's your understanding that Russell Anderson eventually
11 provide some additional information that resulted in his being granted the
12 card?

13 A Yes.

14 Q But you're unaware with respect to Penny Anderson or do
15 you know that she did provide additional information?

16 A I'm not aware of any information she provided, I was
17 unable to locate any additional information she provided, if she did.

18 Q I think you mentioned before that you forgot to bring with
19 you what date the credit application was approved, is that right?

20 A Yes, that is correct.

21 Q Is that something that is readily accessible to you if we
22 took a break at some point during the deposition, how long would it take
23 you to find that information?

24 A I could locate it in a matter of a minute or so.

25 Q At some point, we'll take a break and see if you can get

1 Q I think you have not been able to affirmatively say that she
2 did not send in any additional information, only that you have not been able
3 to find any additional information. I'm wondering if there's any other
4 avenues or anyone else that can search the different systems or look at hard
5 copies of things or recreate something that might give us more information
6 on what happened to Penny Anderson's application after May 29th, 2002.

7 A Any information that's mailed in to Capital One is imaged
8 into our electronic storage system for documents. Any number of things
9 could have happened, it could have been miskeyed or an application number
10 could have been reversed or altered by the person keying it and
11 electronically filed that information under some other number. The only
12 way to search would be to take every possible number combination, that
13 twenty-four or twenty-six digit number and key each one individually which
14 would be a cumbersome type of thing.

15 Q It's not cross-referenced with a person's name or their
16 Social Security number?

17 A No, it's filed by application number unless they have an
18 account with us, and then it may be cross referenced with their Social
19 Security number because they would have an account with us, so that
20 information would be part of our database.

21 Q If Penny Anderson would have provided you with this
22 additional information, you would suspect that there would be at least two
23 additional representations, one being her submission and two being Capital
24 One's response to her submission?

25 A That is correct. Any response or request for credit, we're

1 required by law to respond back to that person.

2 Q So there would have had to have been two misfilings or
3 typos.

4 A Right, that information would probably have been keyed
5 all at the same time. To the best of my knowledge, if we had received two
6 pieces of paper from the customer and it was information we needed or
7 required, we would type or generate that letter to go right then and put it all
8 together to be filed under that application number.

9 Q If she had given you additional information, your system
10 would have recorded the receipt of that letter, correct?

11 A Correct.

12 Q Then based upon receipt of that additional information,
13 Capital One decided we're going to give her the card or nay, we're not
14 going to give her the card, your system would have sent out a letter to that
15 effect?

16 A Yes, it would have all been done at the exact same time.

17 Q So it would not have been two separate transactions? Is it
18 fair to say that if she had a call back and said, hey, my husband sent his in,
19 you gave him the card and I sent mine in and you didn't give it to me, it's
20 your testimony your system does not keep track of those phone calls.

21 A Correct, we don't document every phone call that comes
22 in to Capital One.

23 Q Mr. Anderson's application, pursuant to the May 29th,
24 2000 letter, is that a handwritten application?

25 A Which one are you referencing?

1 Q The May, 2002 situation.

2 A Yes, the system indicates it was a received application in
3 the mail.

4 Q Does it indicate the same for Penny Anderson?

5 A Yes, it does.

6 Q Just so I can finish up, does anyone have an objection if
7 we can take a quick break. He said it might take a minute or two to try to
8 figure out whether that credit card was approved.

9 A The account was approved, I thought the information you
10 wanted was his personal credit card number, the account he's using today.

11 Q No, I wanted to know when you approved him. I think
12 you testified once you received the additional information, the Social
13 Security number or the card and the bank statement on June 24th.

14 A Yes.

15 Q You just don't know exactly when you approved the
16 credit.

17 A Yes, that's correct.

18 Q Is that still something you can figure out in a couple of
19 minutes?

20 A Yes.

21

22 MR. LYONS: Does anyone have an objection if we take a
23 break while he's figuring that out? All right, then let's do that Mr. LeBlanc.

24 WITNESS LEBLANC: Okay, I'll put you on mute.

25 MR. LYONS: Let's take about a three minute break.

1

2 NOTE: A BREAK IS HAD, WHEREUPON THE DEPOSITION
3 CONTINUES, VIS:

4

5

MR. LANE: Is everyone back? Okay.

6

7 BY MR. LANE:

8

9 Q Can you now answer the question as to when that original
10 application May, 2002 was approved?

11 A We received the documents on June 24th, 2002 and
12 approved the application on June 25th, 2002.

13 Q Do you know at this point whether or not Mr. or Mrs.
14 Anderson's original applications in March of 2002, if they were seeking to
15 take advantage of any type of special offers that Capital One was offering at
16 that time?

17 A I'm not aware of any type of special offer that they would
18 have been applying for specifically.

19 Q Is that something that your system would keep track of?

20 A We could probably determine what that offer was based on
21 the application number.

22 Q In a situation like this, where the person sends in
23 additional information, would they still be given the benefit of the original
24 offer even if the time frame has passed?

25 A Yes, because we received the actual application within the

1 time frame for that offer.

2 Q Based on the date that the application is received, not
3 based on the approval date?

4 A That's correct.

5 Q So, whatever terms he could have gotten on May 29th,
6 2002 he would have received on June 25th, 2002?

7 A That is correct.

8 Q I don't have any other questions, thank you.

9 A You're welcome.

10

11 CROSS-EXAMINATION

12 BY MR. PERLING:

13

14 Q I'm Lewis Perling. Mr. LeBlanc, can you hear me okay?

15 A Yes.

16 Q I represent Equifax. Is it your testimony Capital One
17 pulled an Equifax credit report with regard to Russell Anderson in May,
18 2002?

19 A To the best of my knowledge, yes.

20 Q You say to the best of your knowledge, what gives you
21 that impression that's what happened?

22 A My understanding of the credit process, when an
23 application is keyed in that in a matter of seconds we're querying and
24 receiving information from the three bureaus.

25 Q It's typically Capital One's procedure that it would pull